APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,829	09/29/2000	Cathal McGloin	P65973US0	2975

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EXAMINER
KAPADIA, MILAN S

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _29 September 2000_ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892) 4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)☐ Notice of Informal Patent Application (PTO-152)

☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6)☐ Other: .

DETAILED ACTION

Notice to Applicant

1.   This communication is in response to the amendment filed 08 August 2003.

Claims 1-20 are pending.

Claim Rejections - 35 USC § 102

2.   The rejection of the claims 1 and 4 under 35 U.S.C. 102(e) as being anticipated

by Ibarra (6,119,097) is hereby withdrawn due to the amendment filed 8/8/03.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1, 2, 4, 6, and 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Ibarra (6,119,097) in view of Havens (5,909,669) and further in view of Darling (Darling et al.,

"Databases with character," InfoWorld, February 21, 1994, vol. 16, issue 8, pages 67-79).

(A)   As per claim 1, Ibarra teaches a performance management system for use in an

organization having employees working to achieve organization performance goals, the system

comprising:

configuration functions comprising:

an employee setup function including means for creating a database record for an

employee (Ibarra; col. 6, lines 11-14 and col. 10, lines 41-49), and

an objective function including means for configuring objectives for employee

performance (Ibarra; col. 2, lines 48-64) ,

an information management function including means for processing said stored

measurement data according to an objective to generate employee performance management data

(Ibarra; col. 2, line 66-col. 3, line 7), and

a database including means for storing said employee performance management data and

for interfacing with the configuration and the information management functions (Ibarra; col. 4,

lines 48-65).

Ibarra fails to expressly teach an integration engine for automatically capturing from an

external system performance measurement data concerning performance of employees and a

database connected to the integration engine for storing received performance measurement data.

However, this feature is old and well known in the art, as evidenced by Haven's teachings with

regards to an integration engine for automatically capturing from an external system performance

measurement data concerning performance of employees and a database connected to the

integration engine for storing received performance measurement data (Havens; abstract and col.

6, line 19-col. 7, line 21). It is respectfully submitted, that it would have been obvious, to one

having ordinary skill in the art at the time the invention was made, to expand the system taught

by Ibarra with Haven's teaching with regards to this limitation, with the motivation of providing

data that can be used to qualitatively assess the employee (Havens; col. 2, lines 43-54).

The combined system of Ibarra and Havens collectively fail to expressly teach a data

dictionary function means for creating a data dictionary item defining how performance

measurement data imported into the system is processed and displayed, said data dictionary

function including menu means for creating a database field, defining formulas by which the

database field is calculated, and establishing rules to determine how a result obtained for the

database field is entered, displayed and calculated. However, this feature is old and well known

in the art, as evidenced by Darling's teachings with regards to a data dictionary function means

for creating a data dictionary item defining how performance measurement data imported into

the system is processed and displayed, said data dictionary function including menu means for

creating a database field, defining formulas by which the database field is calculated, and

establishing rules to determine how a result obtained for the database field is entered, displayed

and calculated. (Darlings; page 2, paragraph 9 and page 11, paragraphs 7-8). It is respectfully

submitted, that it would have been obvious, to one having ordinary skill in the art at the time the

invention was made, to expand the collective system taught by Ibarra and Haven with Darling's

teaching with regards to this limitation, with the motivation of providing enhanced database

definition and administration functions (Darlings; page 2,paragraphs 9).

(B)   As per claim 2, the combined system of Ibarra, Havens, and Darling collectively fail to

expressly teach wherein the configuration functions comprise an objective group function for

creating an objective group of objectives to which similar weightings are applied and for

associating an employee record with said objective group. However, since Ibarra teaches that

each department (reads on "group") can be assigned their own objectives (Ibarra; col. 4, lines 30-

38), it is respectfully submitted, that it would have been obvious, to one having ordinary skill in

the art at the time the invention was made, to expand the configuration functions of Ibarra,

Havens, and Darling to create an objective group of objects to which similar weightings are

applied and for associating an employee record with said objective group, with the motivation of

enabling the assigning of objectives to the employee that are same as the department's objectives

that the employee belongs to.

(C)   As per claim 4, Ibarra teaches wherein the configuration functions comprise an

objective wizard function for configuring objectives for employee and team performance (Ibarra;

col. 2, lines 48-64, col. 4, lines 30-39, and col. 10, lines 3-40)).

(D)   As per claim 6, the combined system of Ibarra and Darling collectively fail to expressly

teach wherein the configuration functions comprise a KPI wizard function for prompting user

input of organization-level ratings and thresholds. However, this feature is old and well known

in the art, as evidenced by Haven's teachings with regards to a KPI wizard function for

prompting user input of organization-level ratings and thresholds (Havens; abstract and col. 6,

lines 18-47; the Examiner interprets the "benchmark" data as a form of "organization-level

ratings and thresholds.") It is respectfully submitted, that it would have been obvious, to one

having ordinary skill in the art at the time the invention was made, to expand the collective

system taught by Ibarra and Darling with Haven's teaching with regards to this limitation, with

the motivation of providing data that can be used to qualitatively assess the employee (Havens;

col. 2, lines 43-54).

(E)   As per claim 7, Ibarra teaches a KPI group review configuration function for grouping

KPIs together for reporting purposes, and the information management functions comprise a KPI

group review function for outputting group review data (Ibarra; col. 9, line 25-col. 10, line 2).

5.   Claims 3, 5, 15, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ibarra (6,119,097), Havens (5,909,669) and Darling (Darling et al., "Databases with

character," InfoWorld, February 21, 1994, vol. 16, issue 8, pages 67-79) as applied to claims 1

and 2 and further in view of Powers et al. (5,500,795).

(A)   As per claim 3, the combined system of Ibarra, Havens, and Darling collectively

fail to expressly teach wherein the configuration functions comprise a function for generating an

appraisal ratings group of ratings defining how an employee is appraised with reference to

objectives and means in the objective function for associating an objective with an appraisal

rating group and with a data dictionary item. However, this feature is old and well known in the

art, as evidenced by Power's teachings with regards to a function for generating an appraisal

ratings group of ratings defining how an employee is appraised with reference to objectives and

associating an objective with an appraisal group and data dictionary function (Powers; abstract,

col. 16, line 15-col. 18, line 20, and col. 19, lines 33-48; the Examiner interprets the

"management's view regarding the optimum values for each variable" as forms of "objectives.")

It is respectfully submitted, that it would have been obvious, to one having ordinary skill in the

art at the time the invention was made, to expand the collective system taught by Ibarra, Havens,

and Darling with Power's teaching with regards to this limitation, with the motivation of

enabling the generation of performance data on an employee (Powers; col. 2, lines 30-50).

(B)   As per claim 5, the combined system of Ibarra, Havens, and Darling collectively

teach means for prompting input of objective description and appraisal definitions (Ibarra; col. 2,

lines 45-65 and col. 5, lines 4-12) but the combined system of Ibarra, Havens, and Darling

collectively fail to expressly teach means for prompting a rating calculation. However, this

feature is old and well known in the art, as evidenced by Power's teachings with regards to

means for prompting a rating calculation (Powers; col. 16, lines 15-61) It is respectfully

submitted, that it would have been obvious, to one having ordinary skill in the art at the time the

invention was made, to expand the collective system taught by Ibarra, Havens, and Darling with

Power's teaching with regards to this limitation, with the motivation of enabling the generation

of performance data on an employee (Powers; col. 2, lines 30-50).

(C)   Claim 15 repeats the features of claims 1-3 and is therefore rejected for the same

reasons given above in the rejections of claims 1-3 and incorporated herein.

(D)   As per claims 16-20, the combined system of Ibarra and Havens collectively teach that

creating the database field includes data entry options to describe the database field to specify an

organizational hierarchical level for said field, to set a data measurement period, and relating at

least two fields with a selected operator (Powers; col. 5, 28-53, col.7, lines 39-42, and col. 18,

lines 15-25) but collectively fail to expressly teach a menu means for creating the database fields,

data entry options for specifying a display mask format and for enabling manual and override

capabilities. However, this feature is old and well known in the art, as evidenced by Darling's

teachings with regards to a menu means for creating specified database fields, data entry options

for specifying a display mask format and for enabling manual and override capabilities

(Darlings; page 2, paragraph 9 and page 11, paragraphs 7-8). It is respectfully submitted, that it

would have been obvious, to one having ordinary skill in the art at the time the invention was

made, to expand the collective system taught by Ibarra and Haven with Darling's teaching with

regards to this limitation, with the motivation of providing enhanced database definition and

administration functions (Darlings; page 2,paragraphs 9).

6.   Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibarra

(6,119,097), Havens (5,909,669) and Darling (Darling et al., "Databases with character,"

InfoWorld, February 21, 1994, vol. 16, issue 8, pages 67-79) as applied to claim 1 above and

further in view of official notice.

(A)   As per claims 8-14, the combined system of Ibarra, Havens, and Darling

collectively fail to express teach using a three-tier software architecture using object-oriented

programming and proxy stub pairs which are used for remote procedure calls. However, Ibarra

clearly teaches that the system is designed using software and can be used over a computer

network Ibarra; col. 5, lines 58-62 and col. 10, line 66-col. 11, line 3). The examiner takes

official notice that the use of a three-tier software architecture using object-oriented

programming and proxy stub pairs in a system written by software and supporting network

communications is well-known computer arts (See Microsoft computer dictionary 5th edition,

pages 276 373, and 449, and 519, attached at the end of the previous office action). Thus, it is

respectfully submitted, that it would have been obvious, to one having ordinary skill in the art at

the time the invention was made, perform the functions of Ibarra, Havens and Darling using the

well-known three-tier architecture and object-oriented programming techniques and proxy stub

pairs , with the motivation increasing the flexibility of the software system.

Response to Arguments

7.   Applicant's arguments with respect to amended claims ●have been considered

but are moot in view of the new ground(s) of rejection.

(A)   At pages 8-11 of the 8/8/03 communication, Applicant argues each of the

applied references individually. In response, the Examiner respectfully submits that one

cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ

871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In particular, the teachings that Applicant argues are missing from the Ibarra, Havens,

and Powers reference are clearly disclosed in the respective teachings of Darling, <u>when

considered collectively with that of Ibarra, Havens and Powers</u>, as discussed in detail

within a prior Office Action (paper number 5) and in the preceding rejections, and

incorporated herein.

Further, the features newly added and entered in the amendment filed 8/18/03,

they have been shown to be fully disclosed by or obvious in view of the collective

teachings of Ibarra, Havens, Powers, and Darling, as discussed above in detail within

the preceding sections of the present Office Action.

In addition, it is respectfully submitted that the test for obviousness is not

whether the features of a secondary reference may be bodily incorporated into the

structure of the primary reference; nor is it that the claimed invention must be expressly

suggested in any one or all of the references. Rather, the test is what the combined

teachings of the references would have suggested to those of ordinary skill in the art.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. The cited but not applied art teaches generation of rules-based computer programs

using data entry screens (5,450,545); a graphical user interface for creating database integration

specifications (5,712,912); and a comparison of commercially available database packages

(Duncan, Judy, "Product Comparison: Database Building Blocks," InfoWorld, November 18,

1991, vol. 13, issue 46, pages 87-109).

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The

examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David Wiley can be reached on 703-308-5221. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-872-9306 for regular

communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-308-1113.

mk

October 27, 2003

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600